

EXHIBIT 1

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG) C.A. File No. 21-CP-42-
)
WESLEY BENTLEY,)
)
Plaintiff,)
)
vs.)
)
EVERHART TRANSPORTATION, INC.)
a corporation and JOHN DOE 1-2,)
)
Defendants.)
)

SUMMONS

TO: EVERHART TRANSPORTATION, INC
1622 Industrial Road
Greeneville, TN 37745

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint upon the subscribers at 1650 East Greenville Street or Post Office Box 1656 in Anderson, South Carolina 29622-1656, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint and judgment by default will be rendered against you for the relief demanded in the Complaint.

TRAMMELL & MILLS LAW FIRM, LLC

s/Trey
FLOYD S. MILLS, III
S.C. ID # 74038
Post Office Box 1656
Anderson, South Carolina 29622-1656
(864) 231-7171
Trey@trammellandmills.com
ATTORNEYS FOR THE PLAINTIFF
JURY TRIAL DEMANDED

22 January 2021

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG) C.A. File No. 21-CP-42-
)
WESLEY BENTLEY,)
)
Plaintiff,)
)
vs.)
)
EVERHART TRANSPORTATION, INC.)
a corporation and JOHN DOE 1-2,)
)
Defendants.)
)

TO: JOHN DOE 1-2
unknown

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint upon the subscribers at 1650 East Greenville Street or Post Office Box 1656 in Anderson, South Carolina 29622-1656, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint and judgment by default will be rendered against you for the relief demanded in the Complaint.

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG) C.A. File No. 21-CP-42-
)
WESLEY BENTLEY,)
)
Plaintiff,) COMPLAINT FOR DAMAGES
) AND
vs.) JURY TRIAL DEMANDED
)
EVERHART TRANSPORTATION, INC.)
a corporation and JOHN DOE 1-2,)
)
Defendants.)
)

Plaintiff complaining of Defendants herein, would respectfully show unto the Court and allege that:

GENERAL ALLEGATIONS

1. Plaintiff is a citizen and resident of the County of Greenville, State of South Carolina.
2. Plaintiff is informed and believes that the Defendant, **EVERHART TRANSPORTATION, INC., a corporation**, (hereinafter "ET") is a corporation organized and existing under the laws of the State of Tennessee and transports commodities through the State of South Carolina. Defendant ET is subject to the jurisdiction of this Court pursuant to S.C. Code Ann. §§ 36-2-803(A)(1),(2), (3), (5), (7) and (8), as will more fully hereinafter appear. Defendant ET may be served with process by service at its headquarters located at 1622 Industrial Road, Greeneville, TN 37745.
3. Plaintiff is informed and believes **Defendants JOHN DOE 1-2** are unknown entities and/or individuals that are unknown to Plaintiff at the present time due to the nature of the collision being a hit and run with property damage and personal injuries.

FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

4. That at all times mentioned herein a commercial driver of a commercial vehicle was driving in a northerly direction on I-85 in a well-marked construction zone that was merging into one lane in Spartanburg County around 5:30 a.m. on February 27, 2019.

5. Plaintiff was traveling in his personal automobile along this same stretch of roadway on northbound I-85 in Spartanburg County around 5:30 a.m. on February 27, 2019 and also drives commercial vehicles as his professional vocation for Walmart Distribution and has familiarity with commercial trucking companies, their vehicles, logos, and markings.

6. That on or about February 27, 2019, Defendant John Doe was operating a tractor-trailer most likely owned by Defendant ET, given the markings and signage Plaintiff recalls from this incident, when suddenly and without warning Defendant John Doe driver did an improper pass in this well marked construction zone striking Plaintiff's vehicle and causing it to run off the road, strike an embankment and roll over.

7. Defendant John Doe then fled the scene in Defendant ET's tractor trailer knowing there was a vehicle they struck with their commercial tractor trailer.

8. Plaintiff is informed and believes Defendant John Doe driver even called Defendant ET and informed an agent, servant, and/or employee of a collision but still failed to return to the scene or notify local authorities of the same.

9. Plaintiff did incur injuries from this collision, along with property damage and notified local authorities as soon as he was able after the before mentioned trauma of his vehicle slamming an embankment and rolling over.

10. That on February 27, 2019, just prior to the complained of collision, Plaintiff was operating his vehicle in accordance with all applicable traffic rules and regulations.

11. At approximately 5:30 a.m. on February 27, 2019, the time of the complained of collision, weather conditions were clear.

12. At approximately 5:30 a.m. on February 27, 2019, the time of the complained of collision, the condition of the roadway was straight.

13. At approximately 5:30 a.m. on February 27, 2019, the time of the complained of collision, there were no defects in the roadway which contributed to the complained of collision.

14. At approximately 5:30 a.m. on February 27, 2019, the time of the complained of collision, Plaintiff was traveling within his own lane of traffic.

15. At approximately 5:30 a.m. on February 27, 2019, the time of the complained of collision, there were no visual obstructions which prevented Defendant John Doe from seeing the roadway ahead of him or Plaintiff's vehicle traveling in front of him in a construction zone.

16. At approximately 5:30 a.m. on February 27, 2019, the time of the complained of collision, there were no visual obstructions which prevented Defendant John Doe from seeing the traffic conditions around them.

17. That, upon information and belief, Defendant John Doe was, at all times relevant to this complaint, a professional truck driver.

18. That, upon information and belief, Defendant John Doe was, at all times relevant to this complaint, in possession of a valid commercial driver's license.

19. That neither the actions nor any alleged failures to act of Plaintiff contributed in any way to the complained of collision.

20. That, at the time of the complained of collision, Plaintiff did not violate any statutory or common law rule of the road which contributed in any way to the collision.

FOR A FIRST CAUSE OF ACTION
(Negligence)

21. Plaintiff repeats and realleges paragraphs 1 through 20 as though set forth herein verbatim, and would further allege:

22. Plaintiff is informed and do believes that the Defendant ET (acting through its agent, servant and employee driver) and Defendant John Doe were negligent, careless, reckless, wanton, and grossly negligent at the time and place hereinabove mentioned in the following particulars:

- a. in failing to yield the right-of-way;
- b. in failing to maintain a proper lookout;
- c. in failing to keep the ET commercial vehicle under proper control;
- d. in driving too fast for conditions;
- e. in driving at an excessive rate of speed;
- f. in failing to apply their brakes or operating a commercial vehicle without properly operating brakes;
- g. in failing to reduce their speed when approaching another vehicle;
- h. in failing to obey traffic control devices and signs;
- i. in failing to observe the road and traffic conditions;
- j. In paying attention to other matters when they should have been paying attention to road conditions;
- k. In generally failing to use the degree of care and caution that a reasonably prudent person would have used under the same or similar circumstances;
- l. In violating state laws enacted to protect the safety and health of the motoring public, so as to constitute negligence per se;
- m. In violating the provisions of the Federal Motor Carrier Safety Regulations, including but not limited to:

- (i) Section 383.110--General Requirement,
 - (ii) Section 383.111--Required Knowledge,
 - (iii) Section 383.113--Required Skills, and
 - (iv) Section 392.2--Applicable operating rules;
- n. In violating the standards of care set forth in the South Carolina Commercial Driver's Manual, particularly with regard to the following:
 - (i) Section 2.4-Seeing, especially with regard to seeing ahead, looking for traffic and looking for road conditions,
 - (ii) Section 2.6-Controlling Speed, especially with regard to all subsections dealing with driver's perception distance, reaction distance, braking distance, total stopping distance, effect of speed on stopping distance, effect of vehicle weight on stopping distance, speed and distance ahead, and speed and traffic flow,
 - (iii) Section 2.7--Managing Space, especially with regard to the considerations set forth therein,
 - (iv) Section 2.14--Seeing Hazards, especially with regard to the stated importance of seeing hazards, and
 - (v) Section 6.1-Driving Combination Vehicles Safely including the admonitions to steer gently and brake early;
- o. In driving his vehicle so as to overtake and pass another vehicle in a highway work zone where road maintenance or construction work is underway and passing would be hazardous in violation of **S.C. Code Ann. § 56-5-1895**; and
- p. In failing to immediately stop, return to the scene of the accident resulting in injury of a person, and failing to report the accident to proper authorities after temporarily leaving in violation of **S.C. Code Ann. § 56-5-1210**.

All of which constitutes negligence, carelessness, recklessness, wantonness and/or gross negligence and is attributable to the Defendant ET by virtue of the doctrine of respondeat superior.

AS TO DEFENDANT ET (INSTITUTIONAL LIABILITY)

23. Plaintiff is informed and believes that the Defendant ET was negligent, careless, reckless, wanton, and grossly negligent at the time and place hereinabove mentioned in the following particulars:

- a. In failing to have in place policies and procedures to train and/or monitor its drivers, or if such procedures were in place, in failing to enforce them;
- b. In failing to have in place adequate policies and procedures to mandate compliance by its drivers with statutes, laws, and regulations regarding the operation of motor vehicles, or if such policies and procedures were in place, in failing to enforce them;
- c. In failing to have in place an adequate safety program for the safety and protection of the motoring public, or if such program was in place, in failing to implement it;
- d. In failing to ensure that Defendant John Doe had the proper training and experience to be able to navigate a commercial vehicle in a safe and effective manner;
- e. In entrusting a commercial vehicle to Defendant John Doe when Defendant ET knew or should have known that Defendant John Doe could not navigate the commercial vehicle in a safe and effective manner;
- f. In failing to properly investigate Defendant John Doe's driving record and/or ability to drive to ensure that the Defendant John Doe possessed the requisite skill and attention to maintain control of and ability to drive a commercial vehicle for Defendant ET;
- g. In failing to ensure that Defendant John Doe had sufficient, adequate and current training, credentials and skills to properly drive a company vehicle;
- h. In hiring Defendant John Doe as a driver when Defendant ET knew or should have known that John Doe was not qualified or had the requisite skill to drive a company vehicle;
- i. In retaining Defendant John Doe as a driver when Defendant ET knew or should have known that Defendant John Doe was not qualified or had the requisite skill to drive a company vehicle;

- j. In generally failing to use the degree of care and caution that a reasonably prudent entity would have used under the same or similar circumstances;
- k. In violating the provisions of the State of South Carolina Commercial driving requirements and the Federal Motor Carrier Safety Regulations; and
- l. In knowing their driver had a collision with a vehicle and failing to demand they report back to the scene and/or notify local authorities.

24. As a direct and proximate result of the negligence, carelessness, recklessness, wantonness and gross negligence of all defendants above named, Plaintiff has suffered and in the future will suffer from:

- a. personal injuries;
- b. pain and suffering in the past, present and future;
- c. mental anguish;
- d. loss of enjoyment of life in the past, present and future;
- e. past medical expenses;
- f. medical expenses in the future;
- g. lost wages;
- h. permanent impairment and/or disfigurement;
- i. punitive damages; and
- j. Towing, storage, loss of use, and fair market value of his vehicle.

for which Plaintiff is entitled to recover an amount of actual, punitive, special and consequential damages to be determined by a jury at the trial of this action.

WHEREFORE, Plaintiff, respectfully prays for judgment against the Defendants, jointly and severally, for all actual damages, special damages, consequential damages, and punitive damages in an amount to be determined by the jury at the trial of this action and for such other and further relief as this court deems just and proper.

TRAMMELL & MILLS LAW FIRM, LLC

s/Trey
FLOYD S. MILLS, III
S.C. ID # 74038
Post Office Box 1656
Anderson, South Carolina 29622-1656
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ATTORNEYS FOR THE PLAINTIFF
JURY TRIAL DEMANDED

22 January 2021

STATE OF SOUTH CAROLINA
 COUNTY OF SPARTANBURG
 WESLEY BENTLEY,
 Plaintiff,
 v.
 EVERHART TRANSPORTATION, INC.,
 a corporation, and JOHN DOE 1-2,
 Defendants.

IN THE COURT OF COMMON PLEAS
 Civil Action No: 2021-CP-42-00229
PROOF OF SERVICE

THE UNDERSIGNED PAULA R. BOWEN/PARALEGAL FOR TRAMMELL & MILLS LAW FIRM, SWORN SAYS THAT SHE SERVED THE

<input type="checkbox"/> Cross Complaint	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Summons	<input type="checkbox"/> Notice of Mechanic's
<input checked="" type="checkbox"/> Summons and Complaint	<input type="checkbox"/> Lien
<input type="checkbox"/> Complaint	<input type="checkbox"/> Order and Rule to
<input type="checkbox"/> Motion	<input type="checkbox"/> Show Cause
<input type="checkbox"/> Answer	<input type="checkbox"/> Order
<input type="checkbox"/> Petition and Summons	<input type="checkbox"/> Decree
<input type="checkbox"/> Notice of Hearing	<input type="checkbox"/> Mechanic's Lien
<hr/>	

in this action on **DEFENDANT, EVERHART TRANSPORTATION, INC., a corporation,** by delivering same to:

_____, personally;
 _____, a person of discretion residing at the residence;
 and leaving with him/her _____ copy(ies) of the same at _____

at approximately _____ on the _____ day of _____, 2021 and that he/she knows the person so served to be the person mentioned and described in the document served, and that the Deponent is not a party to nor interested in the action.

(X) by mailing a copy of the same by United States Mail at Anderson, South Carolina, with first class postage, certified mail, return receipt requested to 1622 Industrial Road, Greenville, Tennessee 37745 on January 27, 2021.

SWORN TO BEFORE ME THIS
8th day of February, 2021.

(L.S.)

NOTARY PUBLIC FOR SOUTH CAROLINA
 My Commission Expires 4/20/26

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Complete items 1, 2, and 3. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece or on the front if space permits. 		<p>A. Signature <i>SUSY R. J.</i></p> <p>B. Received by (Printed Name) <i>COURT</i></p> <p>C. Date of Delivery <i>1/27/22</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>1. Article Addressed to: <i>Zachary Thomas, Jr. 1022 Industrial Road Kosciusko, IN 37741</i></p> <p>2. Article Number (Transfer from Service Label) <i>7019 0160 0000 5695 6342</i></p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (Over \$500)</p> <p><input type="checkbox"/> Priority Mail Express</p> <p><input type="checkbox"/> Registered Mail</p> <p><input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Signature Confirmation</p> <p><input type="checkbox"/> Restricted Delivery</p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p> <p>Domestic Return Receipt</p>			

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FAQs >

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Feedback

Track Another Package +

Tracking Number: 70190160000056956342

Remove X

Your item was delivered to an individual at the address at 1:50 pm on January 27, 2021 in GREENEVILLE, TN 37745.

Delivered

January 27, 2021 at 1:50 pm
Delivered, Left with Individual
GREENEVILLE, TN 37745

Get Updates ▾

Text & Email Updates



Tracking History



January 27, 2021, 1:50 pm

Delivered, Left with Individual
GREENEVILLE, TN 37745

Your item was delivered to an individual at the address at 1:50 pm on January 27, 2021 in GREENEVILLE, TN 37745.

January 26, 2021, 12:30 pm

Departed USPS Regional Facility
KNOXVILLE TN DISTRIBUTION CENTER

January 26, 2021, 8:26 am
Arrived at USPS Regional Facility
KNOXVILLE TN DISTRIBUTION CENTER

January 25, 2021, 10:15 pm
Arrived at USPS Regional Facility
GREENVILLE SC DISTRIBUTION CENTER

Product Information

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FAQs

Certificate of Electronic Notification

Recipients

Floyd Mills - Notification transmitted on 02-08-2021 03:26:21 PM.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2021CP4200229

Official File Stamp: 02-08-2021 03:26:08 PM

Court: CIRCUIT COURT

Common Pleas

Spartanburg

Case Caption: Wesley Bentley VS Everhart Transportation Inc , defendant, et al

Document(s) Submitted: Service/Affidavit Of Service

Filed by or on behalf of: Floyd S. Mills, III

This notice was automatically generated by the Court's auto-notification system.

The following people were served electronically:

Floyd S. Mills, III for Wesley Bentley

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

John Doe

Everhart Transportation Inc